

STATEMENT
OF
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UNITED STATES DEPARTMENT OF THE TREASURY
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
ON
“THE RISE OF THE MEXICAN DRUG CARTELS AND U.S. NATIONAL SECURITY”
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Chairman Towns, Congressman Issa, Members of the Committee, I appreciate the opportunity to appear before you today to discuss the important role of the Treasury Department’s Office of Foreign Assets Control (“OFAC”) in countering the threat that Mexican drug trafficking organizations pose to our country and our Mexican neighbors, including our common border. In particular, I will describe the use of the Foreign Narcotics Kingpin Designation Act, commonly known as “The Kingpin Act,” in responding to this threat and in supporting not only other agencies of the U.S. government, but also the law enforcement authorities of the Government of Mexico. A significant point that should be made at the outset is that OFAC is not new to the battle against the drug trafficking organizations in Mexico. We have been using the Kingpin Act authorities against significant foreign narcotics traffickers and their networks around the world, including Mexico, since the first set of drug kingpins – what we call Tier I’s - were named by the President in June of 2000.

OFAC’s Mission

The Office of Foreign Assets Control, OFAC, administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign

countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. OFAC acts under Presidential national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under US jurisdiction.

The authorities delegated to OFAC are national security and foreign policy tools that provide power and leverage against a foreign country, regime or non-state actors such as foreign narcotics traffickers and terrorists. One of our most powerful instruments, the Specially Designated Nationals List (or “SDN list”) is used to identify, expose, isolate, and disrupt or incapacitate foreign adversaries with the intended result of denying them access to the United States financial and commercial system and immobilizing their resources. OFAC’s authorities are administrative in nature; but for persons subject to U.S. jurisdiction, violating OFAC sanctions carries both civil and criminal penalties.

The Kingpin Act

On December 3, 1999, the President signed into law the Foreign Narcotics Kingpin Designation Act (the Kingpin Act), which prohibits transactions with, and blocks all property and interests in property, subject to U.S. jurisdiction, of, foreign narcotics traffickers identified by the President. The Kingpin Act also provides authority for OFAC to designate individuals and entities that are owned or controlled by, of acting for or on behalf of, the designated kingpins, allowing OFAC to reach the kingpins’ networks of front companies, facilitators, and strawmen. The Kingpin Act provides for the President to identify “significant foreign narcotics traffickers” prior to June 1 of every year and to report those actions to the Congress. That has been accomplished in early June of every year from 2000 to the present.

This year, President Obama, recognizing the urgency of the threat posed by Mexican traffickers to the safety and security of the United States and our Mexican neighbors, took an unprecedented step and used his authority to identify three Mexican narcotics trafficking organizations ahead of the June 1 timeline. On April 15th of this year, President Obama identified the *Sinaloa Cartel*, *Los Zetas* and *La Familia Michoacana* as significant foreign narcotics traffickers. We at OFAC refer to these individuals as “Tier I” traffickers. While the President identifies Tier I traffickers, OFAC has been delegated the authority to designate for sanctions those working for and on behalf of, owned or controlled by, or materially assisting the Tier I traffickers. This is the real “meat” of counter-narcotics sanctions. These “Tier IIs” – also referred to as derivative designations - include the money launderers, the family members complicit in narcotics trafficking activities, the criminal members of the organization, the transportation cells, and the logistics, procurement, and communications cells make up the financial and support networks of drug trafficking organizations.

Since 1999, the President has identified 82 Tier I traffickers, 37 of which are Mexican. Twenty-eight of the 37 are individuals, for example Joaquin “Chapo” Guzman Loera, Ismael “Mayo” Zambada Garcia, Marcos Arturo Beltran Leyva.; 9 are drug trafficking organizations. In addition to the three organizations President Obama identified this year, President Bush identified the *Gulf Cartel*, the *Beltran Leyva Organization*, *Arrellano Felix Organization*, *Amezcu Contreras Organization*, *Arriola Marquez Organization* and the *Carrillo Fuentes Organization* as Tier I traffickers.

OFAC’s Counter-Narcotics staff

OFAC’s counter-narcotics staff has approximately 10 investigators, who are assisted by an Attaché and Assistant Attaché in Bogota, an Attaché in Mexico City, and an Attaché in Abu

Dhabi. By the end of August 2009, Mexico City will also have an Assistant Attaché. Five investigators in OFAC's Washington, D.C. headquarters are assigned to investigate the financial networks of Mexican drug traffickers, while the remaining five investigate narcotics trafficking networks in Colombia, Afghanistan, Pakistan, Burma, Africa, and elsewhere. Mexico City is also supported by investigators sent there on temporary duty for periods of 60-90 from OFAC headquarters.

OFAC and DEA

We don't do this in a vacuum. In particular, I should give credit to OFAC's unprecedented working relationship with DEA. While OFAC works with all the law enforcement agencies - as well as with State, Justice, Defense, Homeland Security, and the Intelligence Community - and has enjoyed many successes with them. OFAC's counter-narcotics designations sections and our three foreign Attaché offices work especially closely with DEA and its agents in the field. Instrumental to OFAC's success is DEA Financial Operations. Pursuant to a Memorandum of Agreement between OFAC and DEA, since 1999, OFAC has assigned one investigator to work part-time at DEA Headquarters; and in the last several years this has been with DEA Financial Operations. DEA Financial Operations has also assisted OFAC with developing relationships in the field. In March of this year, an agent from Financial Operations travelled with OFAC representatives to meet with DEA offices in San Diego and Phoenix. As a result of these meetings, OFAC has developed closer working relationships with these field divisions. In fact, OFAC has one investigator temporarily assigned to DEA-Phoenix; and one investigator will soon be temporarily assigned TDY to DEA-San Diego. In addition, OFAC is analyzing an offer to position an investigator with DEA in Guadalajara, Mexico. I believe it is a mutually beneficial relationship that will and should continue. I want to thank

DEA, in particular DEA-Financial Operations, for their strong partnership in support to OFAC's counter-narcotics program.

The Colombia Model

The Kingpin Act is modeled upon the successful Colombia program – the original Specially Designated Narcotics Trafficker (“SDNT”) program. In 1995, President Clinton, invoking his powers under the International Emergency Economic Powers Act (IEEPA), found that there was a significant threat to the national security, foreign policy and economy of the United States posed by Colombian narcotics traffickers. On October 21, 1995, President Clinton signed Executive Order 12978, “Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers.” The program has enjoyed enormous successes in the United States and in Colombia. OFAC's work has been instrumental in dismantling the Cali cartel and also key elements of the Norte Valle cartel. Additionally, the cooperation we receive from the Colombian government and the Colombian business and financial community is extraordinary. OFAC, through its Attaché office, works closely not only with other elements of the U.S. Embassy in Bogota, Colombia and U.S. law enforcement, but also with the Colombian *Fiscalia*, the Colombian National Police and the Colombian Financial Intelligence Unit (the *UIAF*), to identify and designate the financial and commercial networks of Colombian traffickers. Many non-U.S. banks have, as a routine practice, closed the accounts of all persons (individuals and entities) on OFAC's list. For example, many Latin American banks have advised OFAC that they rely on the list as part of their due diligence in identifying high-risk account holders. Non-U.S. companies that have no obligation to comply with U.S. sanctions often refuse to work for, supply, or otherwise do business with designated commercial enterprises or employ persons on

OFAC's list, thereby further isolating them commercially. As a result, designated persons are impeded from functioning effectively in the legitimate economy or business world.

OFAC-Bogota also works closely with the Colombian banks to shut down the banks accounts of those individuals and entities designated by OFAC. Though not required by Colombian law, Colombian banks, as a general rule, seeking to protect their reputation and correspondent banking relationships with U.S. banks, refuse services to anyone on OFAC's designation list. The cooperation we receive from the non-U.S. business and Colombian banking industry was originally an unexpected consequence of the sanctions program; and over the nearly 14 years of the SDNT program, it has become a routine practice as well as a large contributor to the program's success.

There are some differences between the Colombia program under IEEPA and the Kingpin Act, which targets Mexican traffickers as well as other drug kingpins around the world; but generally, the programs are very similar.

The Kingpin Act and Mexico

Since 2000, the President has identified 37 Tier I Kingpins in Mexico, and OFAC has designated just over 250 "Tier II" individuals and entities working for or on behalf of Mexican traffickers and their organizations. OFAC's Tier II designations have targeted the finances of the Arrellano Felix Organization, the Arriola Marquez Organization, the Amezcua Contreras Organization and also of Sinaloa drug cartel leaders, Joaquin "Chapo" Guzman Loera, Victor Cazares Salazar, and Ismael "Mayo" Zambada Garcia. In December 2007, OFAC targeted Tier I Kingpin Victor Cazares Salazar and his sister Blanca Cazares Salazar, a key Sinaloa Cartel money launderer. Included in this designation action package were a popular Tijuana restaurant, several unregulated money service businesses, and a 20-store chain of jewelry and cosmetic

boutiques. Additionally, after the designation, OFAC supplied Mexican authorities with information related to several of the designated individuals, and Mexican authorities were able to arrest 6 individuals on money laundering charges.

In October 2008, OFAC designated ten individuals and 6 entities associated with a pseudoephedrine diversion cell operating on behalf of the Amezcua Contreras Organization – a methamphetamine organization. The focus of the designation was *Productos Farmaceuticos Collins*, a company long suspected of diverting pseudoephedrine to methamphetamine producers. After the designation, the Mexican PGR came forward and linked this pseudoephedrine diversion cell with *La Familia Michoacana*, which, as I mentioned, President Obama subsequently identified on April 15, 2009 as a Tier I trafficker. U.S. banks blocked approximately \$2.7 million in the United States, and a \$2 million contract to purchase an airplane was cancelled as a result of this designation.

President Calderon's resolve to combat drug trafficking organizations in Mexico has led to increased cooperation and sharing of information between Mexican authorities and OFAC. For example, since President Calderon took office in 2006, Mexican law enforcement has consulted with OFAC regarding seizure warrants issued against the Arrellano Felix Organization. OFAC's May 2007 designation targeted Ismael "Mayo" Zambada and his network of key family members and criminal associates. Vicente Zambada Niebla, the son of "Mayo" who was among the May 2007 designees, was arrested in March of this year.

OFAC sanctions work in part because they expose and delegitimize businesses owned or controlled by drug traffickers, identifying them as money laundering fronts used to penetrate the legitimate economy with the proceeds of illicit action. In addition, OFAC sanctions are an encouragement to Mexican authorities to take action, therefore diminishing the impact of

possible corruption or intimidation by drug traffickers. Blanca Cazares Salazar's jewelry and cosmetics chain, *CHIKA's*, is a good example. Cazares Salazar's group of six interrelated companies centered around *CHIKA'S*, a chain of approximately 20 jewelry and cosmetics boutiques located in eight Mexican states, which are operated by *Sin-Mex Importadora S.A. de C.V.* in Mexico City and *Comercializadora Jalsin S.A. de C.V.* in Guadalajara, Jalisco. This particular network of Blanca Cazares Salazar front companies also uses the entities *Comercializadora Toquin*, *Comercial Joana*, *Comercial Domely* and *Comercializadora Brimar's* to facilitate the stores' transactions both internationally and within Mexico.

OFAC continues to target an organization even if as it evolves to evade OFAC sanctions. OFAC has seen organizations blatantly incorporate new companies in order to attempt to "get around" OFAC sanctions. The drug trafficking organizations can run, but they can't hide. OFAC doesn't stop after one round of designation. The Arrellano Felix Organization, which is near decimation, has been an OFAC target in six Tier II actions.

OFAC is beginning to see voluntary compliance in Mexico similar to that we experience in Colombia. Screening against the OFAC list in Colombia has become the norm. The same has not been true in Mexico, despite an increase in voluntary compliance. However, in the past two to three years, OFAC has observed that the Mexican banks are increasingly willing to screen the OFAC list; and, consequently, Mexican banks have identified and/or blocked considerable sums of money pursuant to investigations by Mexican authorities which are tied to OFAC's targets. Mexican banks have also reached out to banking authorities for guidance on how to handle assets associated with individuals or entities on the OFAC list. OFAC continues to work with the Mexican banking industry. The OFAC Attaché in Mexico City regularly meets with leaders from the various Mexican banks. Also, for the past six years, the OFAC Attaché and sometimes

other OFAC officials have attended the annual Mexican Bank Association Conference on the Prevention of Money Laundering and Terrorist Financing, including presentations by the OFAC Director and Attaché.

In addition to our work with DEA, ICE, FBI and other government agencies and our cooperation with Mexican law enforcement, OFAC conducts its own investigations generated by leads arising from previous designations. An OFAC designation will generally result in the identification of assets in Mexico, the U.S. or elsewhere. OFAC will follow-up on these leads and “follow the money.”

Impact of Counter-Narcotics Sanctions

According to Colombian narcotics traffickers, there are three things that they fear: 1) arrest and extradition to the United States; 2) seizure of assets; and 3) **OFAC’s SDN List**. Interviews of Mexicans placed on OFAC’s list for acting for or on behalf of drug traffickers suggest that Mexican traffickers feel the same way. Traffickers fear the OFAC list because OFAC sanctions work. Drug traffickers rely on a vast support network, including money launderers, transportation, logistics, procurement, communications, security and other personnel, to support their nefarious activities. They need to disguise their enormous profits in ostensibly legitimate businesses – drug stores, pharmaceutical manufacturers, real estate companies, a beach front resort, an armored truck company, a restaurant, a retail chain, cattle businesses, a working dairy farm, daycare centers, money service businesses. All of these illicit businesses undermine the integrity of the financial system. Working closely with our law enforcement partners in the U.S. and in Mexico, OFAC is working hard to identify the individuals working on behalf of and materially assisting the drug trafficking organizations. OFAC sanctions enable us

not only to protect the integrity of the financial system, but to also strike hard at the heart of the financial operations of illicit actors.

The April identification of three drug trafficking organizations is an expansion of a nine-year program under the Kingpin Act. It lays the groundwork for OFAC to deny these groups and those who work on their behalf access to the U.S. financial system, prohibiting them from all trade and transactions with U.S. companies and individuals, and immobilizing any assets they may have under U.S. jurisdiction. Pursued in concert with Mexican authorities, these actions can lead to asset blockings and forfeitures and other Mexican law enforcement operations that hit the cartels where it hurts. As we have seen in other parts of the world, this two-pronged attack can disrupt and even disable drug cartels as they lose access to their bank accounts, corporate holdings, and property. President Obama's announcement is just the beginning of the disruption and isolation of the Sinaloa Cartel, Los Zetas and La Familia Michoacana.

Illicit Arms Traffic

I also want to briefly describe how OFAC can assist in the pursuit of and impeding illicit arms traffickers. Under its Kingpin Act authorities, OFAC may designate for sanctions those "materially assisting" the narcotics trafficking activities of a Tier I kingpin. Similarly, OFAC may designate as a Tier II kingpin derivative, those who are acting for or on behalf of or who are owned or controlled by individuals or organizations already named as either Tier I kingpins or Tier II derivatives. Thus, those persons in Mexico involved in the illicit arms trade could be subject to designation under the Kingpin Act. Additionally, those U.S. companies or individuals supplying arms to persons designated under the Kingpin Act may be subject to criminal penalties up to \$10,000,000 per corporation, 10 years in prison for ordinary individuals, and up to 30 years in prison and/or \$5,000,000 in fines for corporate officers, directors, or agents. There are also

civil penalties of up to \$1,075,000. OFAC has begun discussions with the ATF to determine how to utilize these Kingpin Act authorities in addition to those already available to ATF, ICE, and CBP.

Conclusion

The Kingpin Act program administered by OFAC provides a powerful mechanism for acting against the threat to the United States posed by foreign narcotics cartels whether in Mexico or elsewhere. In the case of our southern neighbor, OFAC's employment of the Kingpin Act authorities provides a growing opportunity for partnership in combating the scourge of the drug trafficking organizations. It is a force multiplier, and it presents opportunities not only in support of efforts by DEA and other U.S. criminal enforcement agencies, but also to Mexican authorities. The Kingpin Act is an important element in achieving a unity of effort among U.S. federal, state and local agencies and with our Mexican government counterparts, and in disrupting the infrastructures of the drug trafficking organizations and making the cost personal to the individuals who lead them.

Thank you very much for the opportunity to be here today. I welcome any questions.